IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE ELIPE DHARMA RAO**

**WRIT PETITION NO : 19819 of 2000**

Between:

1 K.Dhananjaya, S/o. Basavaiah,
D.No. 10/255C, Nagavrappadu,
Eluru Road, Gudiwada, Krishna District.
2 K.V.Bucheswara Rao, S/o. Sambaiah,
D.No. 10/255C, Nagavrappadu,
Eluru, Road, Gudiwada, Krishna District.
3 M.Siddaiah, S/o. Seshaiah.
D.No. 10/255C, Nagavrappadu,
Eluru, Road, Gudiwada, Krishna District.

**..... PETITIONERS**

AND

1 The District Collector,
Machilipatnam, Krishna District.
2 The Revenue Divisional officer,
Gudiwada, Krishna District.
3 The Municipal Commissioner, Gudiwada Municipality,
Gudiwada, Krishna District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in interfering with the process of making bricks and bricks kilns in our private lands in Valivathipaud Village, Gudiwada Municipality, Krishna dist., is arbitrary, illegal and violative of Art. 14,19 and 21 of the Constitution of India and violative of principles of natural justice and pass such other orders as this Hon'ble Court may deem fit and proper.

**Counsel for the Petitioners:MR.B.SOMASEKHAR**

**Counsel for the Respondents 1 &2 : GP FOR REVENUE**

**The Court made the following :**

**ORDER:**

This Writ Petition is filed seeking a writ of Mandamus declaring the action of the respondents in interfering with the process of making bricks and brick kilns in the private lands of the petitioners in Valivathipadu village, Gudiwada Municipality, Krishna District, as arbitrary and illegal.

The case of the petitioners is that they are having agricultural lands in Valivarthipadu village and as they are potter caste belong to backward class community, they are eaking out their livelihood by manufacturing bricks in their respective lands. While so, the third respondent issued a notice, dated 27.9.2000 under Sections 41, 44 and 134 of the A.P. Public Health Act directing the petitioners to evict the brick kilns within three days as in the process of manufacturing the bricks there is emission of smoke and dust coming out of the brick kilns and it is causing ill-health and inconvenience to the residents of the locality. It is submitted that there is no inconvenience or hazardous to the health of the residents of the locality or the road passers or vehicle drivers as alleged in the notice and more so, it is a seasonal business. It is stated that the notice was issued without there being any complaint or on any basis of scientific report.

A counter affidavit has been filed on behalf of respondents 1 and 2 denying the allegations of the petitioners. It is stated that the petitioners are orally instructed to remove the brick kilns from the locality, which is causing inconvenience to the residents of the locality. Further, it is submitted that the second respondent and his staff never visited the place of manufacturing of bricks and never behaved highhandedly. It is stated that in the interest of public health, the Revenue Divisional Officer, Gudivada has requested the petitioners to remove the brick kilns.

In view of the specific averment in para 3 of the counter affidavit that the petitioners were orally instructed to remove the brick kilns from the locality, which may cause inconvenience to the public and also affect their health, I am not inclined to go into

the merits of the case. However, in case, the brick kilns causes inconvenience or hazardous to the public health, it is open to the respondents to take action in accordance with law after giving reasonable opportunity to the petitioners.

With the above observation, the writ petition is closed. No costs.

ELIPE DHARMA RAO, J

21st JUNE, 2005

Tsr.

To

1 The District Collector,
Machilipatnam, Krishna District.
2 The Revenue Divisional officer,
Gudiwada, Krishna District.
3 The Municipal Commissioner, Gudiwada Municipality,
Gudiwada, Krishna District.

4. Two C.C. copies to the Government Pleader for Revenue, High Court Buildings, Hyderabad (OUT)

5. 2 C.D. copies.